

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ROBERT M. and DEBORAH M., on)	CIVIL NO 07-00432 HG-LEK
behalf of themselves and)	
their minor child, JORDAN M.,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
STATE OF HAWAII,)	
)	
Defendant.)	
_____)	

**REPORT OF SPECIAL MASTER REGARDING
REIMBURSEMENT FOR THE COSTS OF MENTAL HEALTH SERVICES**

On December 19, 2008, the district judge issued an Order Affirming in Part and Denying in Part the July 20, 2007 Findings of Fact, Conclusions of Law and Decision of the Administrative Hearings Officer ("Order"). The district judge ruled, *inter alia*: "The [Department of Education ("DOE")] is required to reimburse Plaintiffs for reasonable counseling services that Plaintiffs privately funded during the time period from December 17, 2005, through January 6, 2006, when the DOE failed to honor the stay-put provision." [Order at 39.] The district judge referred the determination of the amount of the reasonable reimbursement to this Court. [Id. at 44.] On January 8, 2009, this Court issued an entering order setting forth a briefing schedule on the issue ("January 8 Order").

The Court is in receipt of a letter dated January 22,

2009 from Carl M. Varady, Esq., counsel for Plaintiffs Robert M. and Deborah M., individually and on behalf of their minor child, Jordan M. (collectively "Plaintiffs"), in which he advises that Plaintiffs did not incur any reimbursable costs for counseling services during the period specified in the Order. Mr. Varady requests that the Court vacate the briefing schedule set forth in the January 8 Order.

Based upon these representations, the Court HEREBY VACATES the January 8 Order. Further, the Court FINDS that Plaintiffs did not privately fund any counseling services from December 17, 2005 through January 6, 2006 when the DOE did not provide the mental health services set out in the December 8, 2005 Individualized Education Program. The Court therefore RECOMMENDS that the amount of reimbursement for Plaintiffs is zero.

IT IS SO FOUND AND RECOMMENDED.

DATED AT HONOLULU, HAWAII, January 23, 2009.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States Magistrate Judge

ROBERT M., ETC., ET AL V. STATE OF HAWAII; CV 07-00432 HG-LEK;
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